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Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Initial response of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the replies of the national preventive mechanism of Senegal to the recommendations and questions put forward by the Subcommittee in its report on its advisory visit*

* The present document was not edited before being sent to the United Nations translation services.

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I. Introduction

1. The Subcommittee thanks the National Observatory of Places of Deprivation of Liberty, the national preventive mechanism in Senegal, for its replies (CAT/OP/SEN/2/Add.1) to the recommendations and questions put forward by the Subcommittee in its report on its advisory visit of December 2012 (CAT/OP/SEN/2) and wishes to make the following comments.

II. Recommendations regarding the legal framework of the national preventive mechanism

2. Citing the provisions of article 8 of Act No. 2009-13 of 2 March 2009 establishing the National Observatory, according to which the Observatory may make recommendations for legislative and regulatory measures, the Subcommittee urged the Observatory to make recommendations to strengthen the guarantees of its independence set forth in the Senegalese legislative framework, notably Act No. 2009-13, its implementing decree No. 2011-842 of 16 June 2011, and the provisions placing the Observatory in the Ministry of Justice (decree No. 2012-1223 of 5 November 2012).

3. The Subcommittee takes note of the fact that the Observatory has called on the Senegalese authorities to separate the national preventive mechanism from the executive. The Subcommittee asks to be informed of the outcome of discussions with the Minister of Justice on the matter.

4. The Subcommittee also takes note that places of deprivation of liberty falling under the jurisdiction of the armed forces are confirmed to be within the Observatory's sphere of competence and wishes to receive a list of detention centres in military camps.

5. As to the staffing of the Observatory, the Subcommittee reiterates its concern regarding the practice whereby the State places officials and observers at the Observatory's disposal, as provided for under article 3 of decree No. 2011-842 and in view of its comments on staff selection (CAT/OP/SEN/2/Add.1, para. 5), wonders whether the Observatory shares that concern. The Subcommittee would like to know what position the Observatory takes and to be informed of how it intends to raise the matter with the Senegalese authorities.

6. Furthermore, the Subcommittee regrets the lack of information on the steps taken to put forward amendments to the procedure for appointing the Directory of the Observatory (decree No. 2011-842) in order to make the process open, inclusive and participatory. The Subcommittee once again invites the Observatory to propose amendments to that appointment procedure, on the basis of effective practices from other countries.

III. Recommendations relating to institutional issues

7. The Subcommittee welcomes the preparation of a workplan in February 2013, and its subsequent implementation, with visits to places of deprivation of liberty and the provision of training for judges, police officers, gendarmes and prison officials. The Subcommittee strongly encourages the Observatory to continue with these activities, despite limited resources. It also wishes to be informed about the mechanism for dialogue between the Observatory and the State authorities, and about the means of monitoring implementation of the recommendations made after visits to places of deprivation of liberty. In that regard, the Subcommittee asks the Observatory to provide it with a summary of the visits carried out, using the model given in the annex.

8. The Subcommittee welcomes the collaboration between the Observatory, Amnesty International and the Office of the United Nations High Commissioner for Human Rights West Africa Regional Office. It nonetheless wishes to receive information on action taken on the other recommendations on institutional issues in its report, particularly with regard to the order in which to visit places of deprivation of liberty, the strategy for cooperation with national actors and activities to raise the Observatory's profile and increase its accessibility to persons deprived of their liberty, their families and the general public.

IV. Methodological recommendations

9. The Subcommittee takes note of the fact that the Observatory will take its recommendations into account when revising its Guidance on visits to places of deprivation of liberty. It would like to see the draft Guidance before it is finalized.

V. Final recommendations

10. Generally speaking, the Subcommittee would like to be informed of the actual impact of action taken by the Observatory to prevent torture in Senegal.

11. While waiting for the requested additional information and the annual report on the work of the National Observatory of Places of Deprivation of Liberty, the Subcommittee repeats that it is ready to give all the advice it can.

Annex

Model for summary of visits

Date	*Establishment visited*	*Main problems observed*	*Recommendations*	*Action by Government*